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*Washington, Friday, November 1, 1940*

**The President**

**GREENLAND—SUSPENSION OF TONNAGE DUTIES**

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

**A PROCLAMATION**

WHEREAS section 4228 of the Revised Statutes of the United States, as amended by the act of July 24, 1897, c. 13, 30 Stat. 214 (U.S.C., title 46, sec. 141), provides, in part, as follows:

"Upon satisfactory proof being given to the President, by the government of any foreign nation, that no discriminating duties of tonnage or imposts are imposed or levied in the ports of such nation upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported in the same from the United States or from any foreign country, the President may issue his proclamation, declaring that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, so far as respects the vessels of such foreign nation, and the produce, manufactures, or merchandise imported into the United States from such foreign nation, or from any other foreign country; the suspension to take effect from the time of such notification being given to the President, and to continue so long as the reciprocal exemption of vessels, belonging to citizens of the United States, and their cargoes, shall be continued, and no longer . . .";

AND WHEREAS satisfactory proof was received by me from the Government of Greenland on October 9, 1940, that no discriminating duties of tonnage or imposts are imposed or levied in the ports of Greenland upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported in such vessels, from the United States, or from any foreign country:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States of America, by virtue of the authority

vested in me by the above-quoted statutory provisions, do hereby declare and proclaim that the foreign discriminating duties of tonnage and imposts within the United States are suspended and discontinued so far as respects the vessels of Greenland and the produce, manufactures, or merchandise imported in the said vessels into the United States from Greenland or from any other foreign country; the suspension to take effect from October 9, 1940, and to continue so long as the reciprocal exemption of vessels belonging to citizens of the United States and their cargoes shall be continued, and no longer.

IN TESTIMONY WHEREOF I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 29th day of October in the year of our Lord nineteen hundred and [SEAL] forty, and of the Independence of the United States of America the one hundred and sixty-fifth.

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL

Secretary of State.

[No. 2434]

[F. R. Doc. 40-4678; Filed, October 31, 1940; 12 m.]

**Rules, Regulations, Orders**

**TITLE 17—COMMODITY AND SECURITIES EXCHANGES**

**CHAPTER I—COMMODITY EXCHANGE ADMINISTRATION**

**PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT**

**ORDER AMENDING RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER THE COMMODITY EXCHANGE ACT, AS AMENDED**

By virtue of the authority vested in me by section 8a (5) of the Commodity Exchange Act, as amended (7 U.S.C., Sup. V, sec. 12a (5)), and as further

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amended by the act of Congress, approved October 9, 1940 (Public Law No. 818, 76th Cong.), I, Paul H. Appleby, Acting Secretary of Agriculture, hereby amend paragraphs (e) and (f) of § 1.3, part 1, chapter I, title 17, Code of Federal Regulations [contained in section 3 of article I of the Rules and Regulations promulgated by the Secretary of Agriculture under the Commodity Exchange Act on July 14, 1937, as amended April 18, 1938], effective on and after December 8, 1940, so that, as amended, the said paragraphs shall read as follows:

### § 1.3 Definitions.

(e) *Commodity*. This term means and includes wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, millfeeds, butter, eggs, Irish potatoes, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil, and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, and soybean meal.

(f) *Commodity Exchange Act; the act*. These terms mean the Commodity Exchange Act, as amended by the act of

Congress, approved April 7, 1938 (7 U.S.C. and Sup. V, secs. 1-17a), and as further amended by the act of Congress, approved October 9, 1940 (Public Law No. 818, 76th Cong.). (Sec. 2 (a), 42 Stat. 998, secs. 3 and 10, 49 Stat. 1491, 1500, 52 Stat. 205; 7 U.S.C., Sup. V, secs. 2 and 12a (5), as amended by Public Law No. 818, 76th Cong.)

Done at Washington, D. C., this 30th day of October 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

PAUL H. APPLEBY,  
Acting Secretary of Agriculture.

[F. R. Doc. 40-4662; Filed, October 30, 1940; 3:31 p. m.]

## TITLE 19—CUSTOMS DUTIES

### CHAPTER I—BUREAU OF CUSTOMS

[T. D. 50259]

#### PART 13—RELIEF FROM DUTIES ON MERCHANDISE LOST, STOLEN, DESTROYED, INJURED, ABANDONED, OR SHORT-SHIPED

##### SPECIAL PROCEDURE WITH RESPECT TO RELIEF FROM DUTY ON THE GROUND OF NONIMPORTATION IN THE CASE OF PERISHABLE MERCHANDISE AMENDED

Section 13.12 (Article 816 of the Customs Regulations of 1937) is hereby amended by designating the present section as paragraph (a), inserting the word "nonperishable" before the word "merchandise" where it first appears in said article, deleting "whether perishable or nonperishable," and adding a new paragraph (b) reading as follows:

§ 13.12 *Articles damaged and worthless at the time of importation.*

(b) A similar allowance may be made in the case of perishable merchandise in accordance with the following procedure and subject to the conditions set forth therein:

(1) An application for such allowance shall be filed with the collector on customs Form 4373 in duplicate within ninety-six hours after the unloading of the merchandise and before any of the shipment involved has been removed from the pier pursuant to the entry permit.

(2) Upon the receipt of such an application so filed, one copy thereof shall be sent to the appraiser of merchandise with customs Form 4375 attached. The other copy shall be sent to the officer in charge of the outside division with customs Form 4377 attached, if permission is requested to segregate on the pier, or with customs Form 4379 attached, if permission is requested to segregate elsewhere than on the pier.

(3) The officer in charge of the outside division shall designate a suitable officer to supervise the segregation of the merchandise and after completion of the segregation the appraiser shall cause the

merchandise to be examined and report its condition on customs Form 4375.

(4) Should an application filed in accordance with paragraph (1) above be withdrawn, the merchandise involved shall thereafter be released only after a permit on customs Form 4381 has been issued by the collector.

(5) Allowance in duty shall be made in the liquidation of the entry on such of the merchandise covered by the application as is reported by the appraiser to be entirely without commercial value by reason of damage or deterioration. (R.S. 161, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

[SEAL]

W. R. JOHNSON,  
Commissioner of Customs.

Approved: October 24, 1940.

HERBERT E. GASTON,  
Secretary of the Treasury.

[F. R. Doc. 40-4663; Filed, October 30, 1940; 4:05 p. m.]

## TITLE 20—EMPLOYEES' BENEFITS

### CHAPTER II—RAILROAD RETIREMENT BOARD

#### AMENDMENT TO REGULATIONS UNDER THE RAILROAD RETIREMENT ACT OF 1937

Pursuant to the general authority contained in section 10 of the Act of June 24, 1937 (sec. 10, 50 Stat. 314; 45 U.S.C. Sup. III, 226j) the Regulations of the Railroad Retirement Board under such Act (4 F.R. 1477) are amended as follows:

#### PART 222—DEFINITION AND CREDIBILITY OF COMPENSATION

Section 222.03 is amended, effective August 20, 1940, by Board Order 40-422 dated August 20, 1940, by adopting as paragraph (e) the following:

§ 222.03 *Creditability of compensation.*

(e) (1) If an individual occupies the position or office of employee representative as defined in section 1 (b) of the 1937 Act and earns remuneration in that position or office, all such remuneration is earned for services rendered as an employee representative within the meaning of section 1 (h) of the Act, even though the individual performs either in connection with or outside of that position or office some services which are not related to the representation of employees in negotiations with employers regarding wages, hours, working conditions, etc. However, any other remuneration which the individual earns is not earned for service rendered as an employee representative within the meaning of section 1 (h).

(2) If an individual does not occupy the position or office of employee representative and earns remuneration in another position or office, none of such remuneration is earned for services rendered as an employee representative



within the meaning of section 1 (h) of the 1937 Act, even though the individual performs either in connection with or outside of the non-employee representative position some services which are related to the representation of employees in negotiations with employers regarding wages, hours, working conditions, etc. Likewise, if the individual does occupy the position or office of employee representative in addition to his other position or office, but earns remuneration only in the non-employee representative position or office or for service not related to the representation of employees in negotiations with employers, none of such remuneration is earned for service rendered as an employee representative within the meaning of section 1 (h).

#### PART 225—COMPUTATION OF AN ANNUITY

Section 225.03 is amended, effective June 22, 1940, by Board Order 40-335 dated June 22, 1940 as amended by Board Order 40-508 dated September 12, 1940, by adopting as paragraph (c) the following:

#### § 225.03 Determination of "monthly compensation."

(c) Service during the period 1924-1931 included in the "years of service" is, in the judgment of the Board, insufficient to constitute a fair and equitable basis for determining under the 1937 Act the monthly compensation for service prior to January 1, 1937, of an individual claiming an annuity, if

- (1) service began prior to 1924;
- (2) a change to a substantially lower paid occupation did not occur during the last 48 months of service ended in the period 1924-1931;
- (3) some but less than 48 months of service in the period 1924-1931 are proved; and
- (4) the monthly compensation for service prior to January 1, 1937, computed according to section 3 (c) (1) of the Railroad Retirement Act of 1937, would be less than the monthly compensation computed as hereinafter provided.

In such case the monthly compensation for service prior to January 1, 1937, shall be, subject to appeal in accordance with Part 260 of the Regulations under the Railroad Retirement Act of 1937, the average of the compensation earned in the months of service during the period 1924-1931, excluding (1) compensation in excess of \$300 earned in any one month; (2) any month, and the compensation therefor, which is adjacent to a period of one or more calendar months in which the individual earned no compensation as defined in the Railroad Retirement Act of 1937, if the compensation for such adjacent month is less than the compensation for the month immediately preceding or immediately following such adjacent month; (3) any

month, and the compensation therefor, in a period not exceeding two consecutive calendar months, which period is preceded and followed by a period of one or more calendar months in which the individual earned no compensation as defined in the Railroad Retirement Act of 1937, if the compensation for any such intervening month is less than 80 per centum of the monthly average of the earnings reported to the Interstate Commerce Commission for the year 1926 by the employer for employees in the highest paid occupation in which the individual may have been employed in the period 1924-1931, or in an occupation essentially similar thereto; (4) if not otherwise excluded, the month of January, 1924, and the compensation therefor, if no compensation as defined in the Railroad Retirement Act of 1937 was earned in February, 1924, and if the compensation for January, 1924, is less than 80 per centum of the monthly average of the earnings reported to the Interstate Commerce Commission for the year 1926 by the employer for employees in the highest paid occupation in which the individual may have been employed in the period 1924-1931, or in an occupation essentially similar thereto; and (5) if not otherwise excluded, the month of December, 1931, and the compensation therefor, if no compensation as defined in the Railroad Retirement Act of 1937 was earned in November, 1931, and if the compensation for December, 1931, is less than 80 per centum of the monthly average of the earnings reported to the Interstate Commerce Commission for the year 1926 by the employer for employees in the highest paid occupation in which the individual may have been employed in the period 1924-1931, or in an occupation essentially similar thereto: *Provided, however*, That if the monthly compensation so determined is less than 80 per centum of the monthly average of the earnings reported to the Interstate Commerce Commission for the year 1926 by the employer for employees in the highest paid occupation in which the individual may have been employed in the period 1924-1931, or in an occupation essentially similar thereto, the case should be submitted to the Board for determining the monthly compensation in accordance with section 3 (c) (2) of the Railroad Retirement Act of 1937.

Section 225.03 is amended, effective August 20, 1940, by Board Order 40-420 dated August 20, 1940, by adopting as paragraph (d) the following:

(d) Service during the period 1924-1931, included in the "years of service" is, in the judgment of the Board, insufficient to constitute a fair and equitable basis for determining under the 1937 Act the monthly compensation for service prior to January 1, 1937, of an individual claiming an annuity, if

- (1) Service began subsequent to December 1923;

(2) Some but less than 48 months of service in the period 1924-1931 are proved;

(3) The records are available for all of the service rendered; and

(4) The monthly compensation for service prior to January 1, 1937, computed according to section 3 (c) (1) of the Railroad Retirement Act of 1937, would be less than the monthly compensation computed as hereinafter provided.

In such case, the monthly compensation for service prior to January 1, 1937, shall be, subject to appeal in accordance with Part 260 of the Regulations under the Railroad Retirement Act of 1937, the average of the compensation earned in the months of service during the period 1924-1936.

Section 225.03 is amended, effective August 20, 1940, by Board Order 40-421 dated August 20, 1940, by adopting as paragraph (e) the following:

(e) In any claim for adjudication under the 1937 Act, in which service began subsequent to December 1931 and prior to January 1, 1937, the monthly compensation for service prior to January 1, 1937, shall be, subject to appeal in accordance with Part 260 of the Regulations under the Railroad Retirement Act of 1937, the average of the compensation earned in the months of service during the period 1932-1936.

Section 225.03 is amended, effective September 19, 1940, by Board Order 40-541 dated September 19, 1940, by adopting as paragraph (f) the following:

(f) In any case in which the monthly compensation for service prior to January 1, 1937, as determined under subsection (c) above, is less than 80 per centum of the monthly average of the earnings reported to the Interstate Commerce Commission for the year 1926 by the employer for employees in the highest paid occupation in which the individual may have been employed in the period 1924-1931, or in an occupation essentially similar thereto, the monthly compensation for service prior to January 1, 1937, shall be, subject to appeal in accordance with Part 260 of these Regulations, whichever is the greater of (a) the monthly compensation as determined under subsection (c) above or (b) the monthly compensation as determined under the first of the following rules which may be applicable:

(1) If records are available for 48 or more months of service in the period 1918-1931, the monthly compensation shall be the average of the compensation earned in the last 48 such months of service;

(2) If records are available for some but less than 48 months of service in the period 1918-1931, including some service during the period 1918-1923, the monthly compensation shall be the average of the compensation earned in the months of service during the period 1918-



1931 for which records are available, in all cases in which such average is 60 or more per centum of the monthly average of the earnings reported to the Interstate Commerce Commission for the year 1926 by the employer for employees in the highest paid occupation in which the individual may have been employed in the period 1924-1931, or in an occupation essentially similar thereto;

(3) If the monthly compensation as determined under subparagraph (2) above is less than 60 per centum of the monthly average of the reported earnings referred to in such subparagraph, and the individual earned compensation in months in the period 1932-1936 the number of which, when added to the number of months in which compensation was earned in the period 1918-1931, will equal or exceed 48, the monthly compensation shall be the average of the compensation earned in the first 48 months of service rendered in the period 1918-1936;

(4) If records are available for some but less than 48 months of service in the period 1918-1936, including some service in the period 1932-1936, the monthly compensation shall be the average of the compensation earned in the months for which records are available, in all cases in which the monthly compensation so determined is 60 or more per centum of the monthly average of the earnings reported to the Interstate Commerce Commission for the year 1926 by the employer for employees in the highest paid occupation in which the individual may have been employed in the period 1924-1931, or in an occupation essentially similar thereto.

If none of the rules listed under (b) above is applicable, the case should be submitted to the Board for determining the monthly compensation in accordance with section 3 (c) (2) of the Railroad Retirement Act of 1937.

In determining the average of the compensation earned in the months of service in any of the periods referred to above, there shall be excluded

(1) compensation in excess of \$300 earned in any one month;

(2) any month, and the compensation therefor, which is adjacent to a period of one or more calendar months in which the individual earned no compensation as defined in the Railroad Retirement Act of 1937, if the compensation for such adjacent month is less than the compensation for the month immediately preceding or immediately following such adjacent month;

(3) any month, and the compensation therefor, in a period not exceeding two consecutive calendar months, which period is preceded and followed by a period of one or more calendar months in which the individual earned no compensation as defined in the Railroad Retirement Act of 1937, if the compensation for any such intervening month is less than 80 per centum of the monthly

average of the earnings reported to the Interstate Commerce Commission for the year 1926 by the employer for employees in the highest paid occupation in which the individual may have been employed in the period 1924-1931, or in an occupation essentially similar thereto;

(4) if not otherwise excluded, the month of January, 1918, and the compensation therefor, if no compensation as defined in the Railroad Retirement Act of 1937 was earned in February, 1918, and if the compensation for January, 1918, is less than 80 per centum of the monthly average of the earnings reported to the Interstate Commerce Commission for the year 1926 by the employer for employees in the highest paid occupation in which the individual may have been employed in the period 1924-1931, or in an occupation essentially similar thereto; and

(5) if not otherwise excluded, the month of December, 1931, and the compensation therefor, if the period involved ended with such month, and if no compensation as defined in the Railroad Retirement Act of 1937 was earned in November, 1931, and if the compensation for December, 1931, is less than 80 per centum of the monthly average of the earnings reported to the Interstate Commerce Commission for the year 1926 by the employer for employees in the highest paid occupation in which the individual may have been employed in the period 1924-1931, or in an occupation essentially similar thereto; or, if not otherwise excluded, the month of December, 1936, and the compensation therefor, if the period involved ended with such month, and if no compensation as defined in the Railroad Retirement Act of 1937 was earned in November, 1936, and if the compensation for December, 1936, is less than 80 per centum of the monthly average of the reported earnings referred to in this subparagraph.

Section 225.03 is amended, effective October 29, 1940, by Board Order 40-609 dated October 29, 1940, by adopting as paragraph (g) the following:

(g) If, in any case described in subsection (c) or (f) above, it appears that the employer did not make reports for the year 1926 to the Interstate Commerce Commission of the monthly average of the earnings of employees in the highest paid occupation in which the individual may have been employed in the period 1924-1931, or in an occupation essentially similar thereto, but there is available a consolidated monthly average of employee earnings reported to the Commission for the same year by the Class I carrier-employers of the district in which the employer was located, for employees in the highest paid occupation in which the individual may have been employed in the period 1924-1931, or in an occupation essentially similar thereto, such consolidated monthly average shall be used, in lieu of such monthly average of earnings reported by the employer, in determining the monthly compensation for service

prior to January 1, 1937, in the manner prescribed by the applicable Board Order: *Provided, however,* That cases in which it appears that the employer did not make such reports of the monthly average of earnings, and in which the applicable consolidated monthly average is not available, should be submitted to the Board for determining the monthly compensation in accordance with section 3 (c) (2) of the Railroad Retirement Act of 1937.

#### PART 265—APPLICABILITY OF 1935 OR 1937 ACT

Section 265.04 is amended, effective August 29, 1935, by Board Order 40-241 dated May 16, 1940, by adopting as paragraph (k) the following:

(k) (1) Service rendered to a carrier which conducts the principal part of its business within the United States shall, if otherwise qualified, be "employee" service, whether rendered within or outside the United States, and

(2) Service rendered to a carrier which conducts some, but less than the principal part, of its business within the United States shall, if otherwise qualified, be "employee" service only when rendered within the United States.

By Authority of the Board.<sup>1</sup>

[SEAL]

JOHN C. DAVIDSON,  
Secretary.

OCTOBER 31, 1940.

[F. R. Doc. 40-4677; Filed, October 31, 1940; 11:31 a. m.]

#### REGULATIONS UNDER THE JOINT RESOLUTION PROVIDING FOR THE ACQUISITION BY THE RAILROAD RETIREMENT BOARD OF DATA NEEDED IN CARRYING OUT THE PROVISIONS OF THE RAILROAD RETIREMENT ACTS

##### PART 299—ACQUISITION OF DATA<sup>2</sup>

##### Definitions

§ 299.01 *Words and phrases.* For the purpose of these Regulations, except where the language or context indicates otherwise:

(a) *Joint resolution.* The term "Joint Resolution" means the Joint Resolution (Public Resolution No. 102, 76th Congress) providing for the acquisition by the Railroad Retirement Board of data needed in carrying out the provisions of the Railroad Retirement Acts.

(b) *Act.* The term "Act", or "1937 Act", means the Railroad Retirement Act of 1937. The term "1935 Act" means the Railroad Retirement Act of 1935.

(c) *Employer.* The term "employer" means an employer as defined in the Act and Part 202 of the Regulations under the Railroad Retirement Act of 1937.

(d) *Originating employer.* The term "originating employer" means the em-

<sup>1</sup> Board Order 40-613, dated October 30, 1940.

<sup>2</sup> Board Order 40-612, October 30, 1940, effective Nov. 1, 1940.



ployer to which an individual has submitted Form AA-15, "Employee's Statement of Compensated Service Rendered Prior to January 1, 1937, to Employers under the Railroad Retirement Act of 1937".

(e) *Former employer.* The term "former employer" means any covered employer for which the individual rendered compensated service prior to January 1, 1937, other than the originating employer.

(f) *Employee.* The term "employee" means an employee as defined in the Act and Part 203 of the Regulations under the Railroad Retirement Act of 1937.

(g) *Service.* The term "service" means service as defined in the Act and Part 220 of the Regulations under the Railroad Retirement Act of 1937.

(h) *Compensation.* The term "compensation" means compensation as defined in the Act and Part 222 of the Regulations under the Railroad Retirement Act of 1937.

(i) *Board.* The term "Board" means the Railroad Retirement Board.

(j) *Company.* The term "company" means a partnership, association, joint stock company, corporation, institution, receiver or trustee.

(k) *Other company.* The term "other company" means a company, association, or person, other than an employer subject to the Act, which is in possession of the data for the acquisition of which the Joint Resolution provides.

(l) *United States.* The term "United States," where used in a geographical sense, means the States, Alaska, Hawaii, and the District of Columbia.

(m) *Person.* The term "person" includes an individual, trust, estate, partnership, association, joint stock company, company, corporation, and institution.\*

#### Collection and Reporting of Data

§ 299.02 *Statutory provisions.* " \* \* \* each employer subject to the Railroad Retirement Act of 1937, and each other company, association, or person (hereinafter referred to as the 'other company') who is in possession of such data as are hereinafter described, shall immediately begin collecting and shall furnish currently as completed and not later than June 30, 1943, shall have completed furnishing to the Railroad Retirement Board (hereinafter called 'the Board') in such form as the Board may prescribe, certified reports of all data with respect to service and compensation prior to January 1, 1937, corresponding in substance with that which has heretofore been required by the Board for the adjudication of claims for annuities under the Railroad Retirement Act of 1937 and the Railroad Retirement Act of 1935 and which can be obtained from records in the pos-

session of such employer or other company." (Sec. 1, Pub. Res. No. 102, 76th Cong.)

"If any employer or other company fails to exercise due care and diligence in carrying out its duties under this joint resolution, the Board, by its employees, may transcribe the necessary data from records in the possession of such employer or other company, which records shall be made available as the Board may require, and no payment shall be due to any employer or other company for or on account of any records transcribed by employees of the Board." (Sec. 3, Pub. Res. No. 102, 76th Cong.)

§ 299.04 *Reports heretofore required.* No provision of these Regulations shall be construed so as in any manner to limit or impair the obligation to submit reports required by the Regulations under the Railroad Retirement Act of 1937, such as employers' reports of compensation of employees, required by § 250.03; reports in verification of claimed service and compensation of individuals who have made application for annuities, in accordance with §§ 220.04 and 222.05; and employer's notices of death of employees, required by § 250.02, of such Regulations.\* (Secs. 5, 7, Pub. Res. 76th Cong.)

§ 299.08 *Data required.* Each employer and other company in possession of the necessary reports or information shall collect and furnish to the Railroad Retirement Board prior to June 30, 1943, in such form and in accordance with such instructions as the Board may prescribe and under such schedules as may be arranged, data concerning service rendered prior to January 1, 1937, and compensation earned between January 1, 1924, and December 31, 1931, by employees who, on August 29, 1931, were in the active service of, or in an employment relation to, an employer covered by the Railroad Retirement Acts, or were employee representatives, except that:

(a) In the cases of certain employees who may become eligible for annuities under the 1935 Railroad Retirement Act, reports of service performed prior to January 1, 1937, may be required even though the employee was not, on August 29, 1935, in the active service of, or in an employment relation to, an employer covered by the Act, and

(b) In certain cases, where no service, or in the judgment of the Board insufficient service, was rendered by the employee between January 1, 1924, and December 31, 1931, the Board will require reports of compensation for other periods of service.\* (Secs. 1, 5, Pub. Res. No. 102, 76th Cong.)

§ 299.12 *Collection of data.*—(a) *Forms for collection and reporting.* In reporting the data required by § 299.08, it shall be the duty of every employer or other company with respect to each of its employees who performed creditable service prior to January 1, 1937, to take all practicable steps to obtain and submit,

as may be prescribed in the instructions, the following:

(1) Form AA-15, "Employee's Statement of Compensated Service Rendered Prior to January 1, 1937, to Employers Under the Railroad Retirement Act of 1937." This form will contain the employee's claim for service prior to January 1, 1937.

(2) Form OE-4a, "Employee's Record of Compensated Service Prior to January 1, 1937, with a Labor Organization Employer under the Railroad Retirement Act of 1937." This form will contain the employee's claim for service with a labor organization prior to January 1, 1937.

(3) Form AA-2P, "Record of Employee's Prior Service." This form will contain the statement of the employee's prior service and compensation prepared by the employer from its records.

(4) Form OE-5a, "Service and Compensation Report by Labor Organization Employer." This form will contain the statement of the employee's prior service and compensation prepared by the labor organization employer from its records.

(5) Forms ERR-8, ERR-8a, or ERR-8b, "Employment Relation Questionnaire." These forms, used in the alternative, are the employer's statement of the facts concerning the employee's status on August 29, 1935, for the purpose of enabling a determination to be made as to whether the employee was in an employment relation to the employer on that date.

(6) Form LQ-10, "Payments for Time Lost." This form will contain the employer's statement of facts concerning the nature of the payments made to an employee with respect to periods during which an employee lost time, and

(7) Such other forms as may be prescribed in the instructions governing the collection and submission of these data.

(b) *Sources of data.* Except as otherwise prescribed in instructions issued by the Board, the required data shall be obtained only from detailed records, such as pay rolls, pay roll cards, relief department records, or other similar detailed compensation records which constitute a month by month record establishing the fact that an employee was or was not in compensated service.

(c) *Manner of collection.* The required data shall be collected in accordance with instructions issued by the Board.

(d) *Scheduling of collection.* In order to regulate the flow of data to the Board, the chief liaison officer shall have authority to arrange with each employer or other company for the preparation and adoption of a schedule for collecting, verifying, and reporting the required data. The chief liaison officer and each employer or other company, in preparing such schedule, shall take into account the ability and capacity of the employer or other company to collect, verify and report the data, and of the Board to proc-

\* §§ 299.01-299.74 issued under the authority contained in sec. 5, Pub. Res. No. 102, 76th Cong., approved Oct. 9, 1940. Statutory authority for the issuance of particular sections or paragraphs is noted in parentheses at the end of such sections or paragraphs.



ess the data submitted. Such schedule, when approved by, or on behalf of, the employer or other company, and by the chief liaison officer, shall control, to the extent practicable, the flow of the data from the employer or other company to the Board.\* (Secs. 1, 4, 5, Pub. Res. No. 102, 76th Cong.)

§ 299.16 *Forwarding of data*—(a) *Time of forwarding.* Data which have been collected shall be forwarded to the Board in accordance with any schedule which may have been arranged under § 299.12 (d). If no such schedule has been arranged, the data shall be forwarded as soon as practicable after collection.

(b) *Manner of forwarding.* Data which have been collected shall be delivered or mailed to any regional office of the Board, or to the office of the Board at Washington, D. C., by the employer or other company, at its own expense. Such data shall be so packaged as to be suitable for mailing and each package shall be marked "For the Attention of the Director of Retirement Claims." Forms AA-2P prepared by originating employers, and requiring transmission to former employers, shall be packaged separately and marked "for further forwarding to former employers".\* (Secs. 1, 5, Pub. Res. No. 102, 76th Cong.)

§ 299.20 *Transcription by Board employees.* If any employer or other company fails to exercise due care and diligence in carrying out the duties required by these Regulations with respect to the collection and submission of the data, the Board may require such employer or other company to make its records available to employees of the Board and will have such employees transcribe the necessary data.\* (Secs. 3, 5, Pub. Res. 102, 76th Cong.)

§ 299.23 *Priorities in collection and submission of data.* Preference shall be given to the completion and submission of data for those individuals who have filed applications for annuities and for those individuals who have given notice of retirement.\* (Secs. 1, 5, Pub. Res. 102, 76th Cong.)

§ 299.26 *Commitments to employees.* Employers or other companies shall not make any commitments to employees relative to the value, in the adjudication of claims which may be filed, of the documents or other data submitted by employees through such employers or other companies, or submitted by such employers or other companies.\* (Secs. 5, 7, Pub. Res. 102, 76th Cong.)

#### *Payment to Employers and Other Companies*

§ 299.30 *Statutory provisions.* "The Board is hereby authorized and directed to establish a uniform reasonable rate of payment to which employers or other companies are entitled for the furnishing of the reports required by section 1 of this joint resolution to be furnished, which rate shall not result in payment to

any employer or other company of any amount in excess of 50 cents multiplied by the aggregate number of man-years of service established and verified by such employer or other company and reported to the Board in accordance with section 1 of this joint resolution. The Board shall, from time to time, determine, and certify on proper voucher to the Secretary of the Treasury, the amount of payment due to each employer or other company pursuant to this section: *Provided, however,* That no payment shall be certified or made with respect to any item in such reports as concerns the record of employees sixty-five years of age or over who have filed application for annuity, or with respect to any report not furnished on or before June 30, 1943. Upon such certification, the Secretary of the Treasury shall pay such amount to such employer or other company from the special fund herein-after established. Whenever any employer or other company furnishes through any other employer or other company any report required by the first section of this joint resolution to be furnished, the Board may certify the payment to be made to the employer or other company through whom such report is furnished, and payment in accordance with such certification shall discharge all obligations arising hereunder with respect to such report.\* (Sec. 2, Pub. Res. 102, 76th Cong.)

§ 299.32 *Payment period.* The amount of payment due to each employer or other company shall be determined, and payment shall be made, with respect to a payment period of three consecutive months established separately for each employer or other company by the Board. The amounts so determined will be certified by the Board to the Secretary of the Treasury for payment.\* (Secs. 2, 5, Pub. Res. 102, 76th Cong.)

§ 299.36 *Rate of payment.* Payment shall be made at the uniform rate of 50 cents per man-year of service established, verified and reported by each employer or other company in accordance with these Regulations and instructions prescribed by the Board.\*

§ 299.38 *Man-years of service.* A man-year of service is any twelve man-months of service; a man-month of service is a calendar month in which a particular individual rendered some service for compensation or with respect to which he received remuneration for time lost as an employee. In computing the aggregate number of man-years reported in each payment period of three consecutive months, for the purpose of reimbursing an employer or other company, the total man-months of service reported by such employer or other company during such period for all employees, other than those with respect to whose data no payment may be made, shall be divided by twelve. Any remainder shall be carried forward and included in the next payment period. If the ultimate fraction in connection with the

final payment to an employer or other company is one-half or more, reimbursement shall be made for a full man-year of service; if the ultimate fraction is less than one-half, it shall be disregarded.\* (Secs. 2, 5, Pub. Res. 102, 76th Cong.)

§ 299.40 *Data not to be included in basis for payment.* (a) No payment shall be made to any employer or other company for data submitted with respect to any individual who claims in his application for a railroad retirement annuity a date of birth which is 65 or more years prior to the date his application was officially filed with the Board, unless such data were placed by the employer in transmission to the Board prior to the date the application was officially filed with the Board.

(b) No payment shall be made to any employer or other company for data submitted with respect to any individual advice of whose death has been received by such employer or other company prior to the date such data were placed in transmission to the Board. An employer or other company shall be held to have received advice of the death of an individual (1) at the time of the death of such individual if he was at that time in the service of such employer or other company, or (2) at the time of the receipt of a communication making reference to the death of such individual if he died while not in the service of such employer or other company.

(c) No payment shall be made to any employer or other company for data submitted with respect to any individual in connection with whom such employer or other company has received more than ten days before October 9, 1940, a request from the Board to furnish such data.

(d) No payment shall be made to any employer or other company with respect to any report not submitted on or before June 30, 1943.

(e) No payment shall be made to any employer or other company for data which are not obtained from detailed records, which constitute a month by month record establishing the fact that an employee was or was not in compensated service.

(f) No payment shall be made to any employer or other company with respect to data transcribed by employees of the Board in accordance with § 299.20.\* (Secs. 2, 5, Pub. Res. 102, 76th Cong.)

§ 299.44 *Reports furnished through other employers.* Whenever any employer or other company furnishes, through any other employer or other company, any required report, the Board may certify the payment to be made to the employer or other company through which such report is furnished, and payment in accordance with such certification shall discharge all obligations of the Board with respect to such report.\* (Secs. 2, 5, Pub. Res. 102, 76th Cong.)

§ 299.46 *Delinquent employers.* An employer or other company which fails to complete and submit any Form AA-2P with respect to an individual who has



filed an application for annuity, within a period of one month from the date a request for the completion of such form is made by the Board, shall be considered delinquent, unless the Board finds that such failure was due to circumstances or conditions which it was beyond the reasonable ability of such employer or other company to control. Such delinquency shall be regarded as removed when there are no such Forms AA-2P outstanding with an employer the request for completion of which was made more than one month prior to such time. The Board may withhold payment, until the delinquency has been removed, to a delinquent employer or other company for many years of service reported by such employer or other company.\* (Secs. 2, 5, Pub. Res. 102, 76th Cong.)

*Record of Creditable Service Rendered Prior to January 1, 1937, and Compensation Therefor*

§ 299.50 *Statutory provisions.* "Reports, records, and data acquired by the Board pursuant to this joint resolution shall be so assembled and processed by the Board as to provide as nearly as practicable a complete record, by individuals, of all service and compensation prior to January 1, 1937, creditable under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935. The Board shall take steps reasonably calculated to give notice of such record to each individual with respect to whom such record is established. Direct communication, transmission to employers for delivery, public advertisement, or such other means as the Board may determine, shall constitute due notice to all such individuals: *Provided, however,* That, unless the Board's records show that actual notice was received through other means by an individual for whom the Board has an address on file and such notice is evidenced by a receipt signed by such individual, notice to such individual shall include the mailing of notice to the last address on file with the Board. Whenever the Board shall determine that reasonable notice has been given it shall so find and shall enter such finding upon its records. Such finding may be made with respect to all individuals or, from time to time, with respect to described classes of individuals. Any record established as hereinabove provided, which is not contested within two years after the finding of reasonable notice hereinabove provided for has been entered upon the records of the Board, shall be presumed to include all service rendered and compensation earned prior to January 1, 1937, by the individual to whom such record relates, and, unless shown by new and manifestly convincing evidence to be clearly erroneous, shall be conclusive: *Provided, however,* That such record shall in no wise restrict the au-

thority of the Board to determine, upon the filing of an application for an annuity, that some or all of the service or compensation so recorded is not service or compensation as said terms are defined in the Railroad Retirement Acts or that under the provisions of the applicable Railroad Retirement Act some or all of the service or compensation so recorded is not to be used in the computation of an annuity. The Board may also take steps, through publication or otherwise, reasonably calculated to give notice of the carrying out of this joint resolution, to individuals with respect to whom no record of service or compensation is established. Whenever the Board shall determine that such steps have been taken it shall so find and shall enter such findings upon its records. With respect to each individual who does not, within two years after such finding has been entered upon the records of the Board, request the establishment of a record of his service and compensation, the fact that no such record is established shall be presumed to show that such individual, prior to January 1, 1937, rendered no service and earned no compensation as said terms are defined in the applicable Railroad Retirement Act, and such presumption shall be rebuttable only by new and manifestly convincing evidence showing it to be clearly erroneous."\* (Sec. 4, Pub. Res. No. 102, 76th Cong.)

§ 299.52 *Establishment of record.* The Board will assemble and process the reports and other data received from employers and other companies so as to establish, as nearly as practicable, complete records by individuals, of all creditable service rendered prior to January 1, 1937, and of all creditable compensation necessary to establish the average monthly compensation for such service.\* (Secs. 4, 5, Pub. Res. No. 102, 76th Cong.)

§ 299.54 *Notice of record.*—(a) *Notice to employees for whom a record has been established.* As soon as practicable after the establishment of the record with respect to each individual, the Board will give notice to such individual of the establishment of such record and the amount of creditable service and compensation so established.

(b) *Notice to individuals for whom no record has been established.* As soon as practicable after it is learned that no record will be established with respect to any individual who has filed a Form AA-15, or whose case has otherwise come to its attention, the Board will give notice of such fact to such individual.

(c) *Manner of notice.* Notice under (a) and (b) shall be given to each individual, if his address is on file with the Board, by mail, or, if his address is not on file with the Board, (1) by transmission to employers for delivery, (2) by public advertisement, or (3) by such other means as the chief liaison officer may determine.

(d) *General notice to employees and other individuals.* After notice has been sent to each individual for whom a record of service and compensation has been established, and to each individual who has filed a Form AA-15, or whose case has otherwise come to the Board's attention, with respect to whom it is known no such record will be established, and upon the establishment of such record generally for all individuals for whom a record will be established, the Board will take steps to notify generally by public advertisement, by posters to be placed in offices of employers and labor organizations, or otherwise, each interested individual that all records of creditable service rendered prior to January 1, 1937, and creditable compensation necessary to establish the average monthly compensation for such service have been established and that if such individual believes he rendered such service and received such compensation and has not received notice thereof from the Board, he should request the establishment of a record thereof.\* (Secs. 4, 5, Pub. Res. No. 102, 76th Cong.)

§ 299.56 *Finding that reasonable notice has been given.*—(a) *Individuals who acknowledge receipt of notice.* Upon receipt of acknowledgment from each individual receiving notice of the establishment of a record, or the failure to establish such a record, with respect to such individual, that such notice has been received, the Board will, from time to time, find that reasonable notice has been given, and will enter such finding in its record.

(b) *Individuals from whom no acknowledgment of receipt of notice is received.* Upon the establishment of the record generally for all individuals for whom such record will be established and after the general notice as provided in § 299.54 (d), the Board will find, with respect to all individuals or, from time to time, with respect to described classes of individuals, that reasonable notice has been given, and will enter such finding in its record.\* (Secs. 4, 5, Pub. Res. No. 102, 76th Cong.)

§ 299.58 *Contest of record.*—(a) *By individuals for whom a record has been established.* Upon receipt of notice of establishment of his record, each individual who believes his creditable service prior to January 1, 1937, and compensation therefor to be other than as indicated in such notice shall forward immediately to the Railroad Retirement Board, Washington, D. C., attention of the director of retirement claims, a statement setting forth the nature and extent of his protest.

(b) *By individuals to whom notice that a record will not be established has been sent.* Upon receipt of an individual notice that a record will not be established for him, each individual who believes that he rendered creditable service prior to January 1, 1937, shall forward immediately to the Railroad Retirement



Board, Washington, D. C., attention of the director of retirement claims, a request for the establishment of a record of his service and compensation.

(c) *By individuals not in receipt of any individual notice.* Upon receiving knowledge of the general advertisement or other advice that all notices of establishment of record have been sent out, each individual who has received no individual notice of establishment of such a record for him or that such a record will not be established and who believes that he rendered creditable service prior to January 1, 1937, shall forward immediately to the Railroad Retirement Board, Washington, D. C., attention of the director of retirement claims, a request for the establishment of a record of his service and compensation.

(d) *Decisions upon contest.* Each contest, of the record as established, or of the failure to establish such a record, shall be determined in the first instance by the director of retirement claims, subject to appeal in the same manner as provided in Part 260 of the Regulations under the Railroad Retirement Act of 1937 with respect to decisions on application for annuities.\* (Secs. 4, 5, Pub. Res. No. 102, 76th Cong.)

§ 299.60 *Finality of record*—(a) *For individuals for whom a record is established.* Any record, established as provided in § 299.52 for any individual with respect to whom the Board has found in accordance with § 299.56 that reasonable notice has been given of the record thus established, and which is not contested within two years after such finding that notice has been given, shall be presumed to include all creditable service rendered prior to January 1, 1937, by the individual to whom such record relates, as well as all creditable compensation necessary to establish the average monthly compensation for such service, and, unless the Board finds, upon the presentation of new and manifestly convincing evidence, that it is clearly erroneous, shall be conclusive: *Provided, however,* That the Board may find, upon receipt of application for an annuity, that some or all of the service or compensation recorded is not service or compensation as defined in the Act, or that some or all of the service or compensation recorded is not to be used in the computation of an annuity.

(b) *Individuals for whom a record is not established.* The fact that no record has been established in accordance with § 299.52 for any individual with respect to whom the Board has found that reasonable notice thereof has been sent in accordance with § 299.56, and from whom no request for the establishment of a record of his service and compensation is received within two years after the finding by the Board that reasonable notice has been sent, shall be presumed to show that such individual rendered no

creditable service and earned no creditable compensation prior to January 1, 1937, and, unless the Board finds upon the presentation of new and manifestly convincing evidence that it is clearly erroneous, such presumption shall be conclusive.\* (Secs. 4, 5, Pub. Res. 102, 76th Cong.)

#### Miscellaneous

§ 299.70 *Statutory provisions.* "All powers and remedies including legal processes available to the Board under the Railroad Retirement Act of 1937 for the administration of said Act shall be similarly available to the Board for the carrying out of this joint resolution."\* (Sec. 5, Pub. Res. No. 102, 76th Cong.)

§ 299.72 *Powers and remedies available to the Board.* All powers and remedies available to the Board under the Act for the administration thereof, including the right to require, by legal process or otherwise, any individual, person, or company to furnish or submit any information, records, contracts, documents, reports or other material within their possession or control, that, in the judgment of the Board, may be required, shall be available to the Board for the enforcement of these Regulations.\* (Sec. 5, Pub. Res. No. 102, 76th Cong.)

§ 299.74 *Personnel, facilities, equipment, and supplies.* (a) Employers and other companies shall provide at their own expense such personnel as they consider necessary to discharge their obligations under the Joint Resolution and these Regulations.

(b) Office space, equipment such as furniture and typewriters, stationery other than that for which provision is made in (c), and miscellaneous forms used by employers and other companies for their own convenience in facilitating the work, shall be furnished by the employers and other companies.

(c) Printed forms, stationery which becomes a part of the Board's file of the individual employee, and such other supplies as may be required to comply with specific instructions issued to employers and other companies, will be furnished by the Board. (Sec. 5, Pub. Res. 102, 76th Cong.)

(d) For such limited period as the Board determines to be necessary in order for it to properly investigate any complaint, protest, or contest made by employees with respect to the records established for them, employers and other companies shall preserve in accessible form the original records from which the data furnished to the Board in accordance with these Regulations and instructions prescribed by the Board have been obtained.\*

By Authority of the Board.

[SEAL]

JOHN C. DAVIDSON,  
Secretary.

[F. R. Doc. 40-4676; Filed, October 31, 1940; 11:31 a. m.]

## Notices

### TREASURY DEPARTMENT.

Customs Bureau.

[T. D. 50260]

WILD ANIMALS FROM BOLIVIA AND ARGENTINA

CONSULAR CERTIFICATES REQUIRED IN CONNECTION WITH THE IMPORTATION OF CHINCHILLAS FROM BOLIVIA AND ARGENTINA, AS WELL AS VICUNAS AND ALPACAS FROM BOLIVIA

October 30, 1940.

Under present laws and decrees, the Government of Bolivia prohibits the exportation of vicunas, alpacas, and chinchillas, and the Government of Argentina prohibits the hunting of chinchillas.

In view of the foregoing, collectors of customs shall require, pursuant to the provisions of section 527, Tariff Act of 1930 (19 U.S.C. 1527), consular certificates before permitting the entry of chinchillas or parts or products thereof, imported directly or indirectly from Bolivia and Argentina, as well as vicunas and alpacas or parts or products thereof, imported directly or indirectly from Bolivia.

[SEAL]

W. R. JOHNSON,  
Commissioner of Customs.

[F. R. Doc. 40-4668; Filed, October 31, 1940; 10:42 a. m.]

### WAR DEPARTMENT.

SUMMARY OF COST - PLUS - A - FIXED - FEE (COLLATERAL CONTRACT TO CONTRACT No. W-ORD-472, DATED SEPTEMBER 10, 1940, BETWEEN THE UNITED STATES OF AMERICA AND HENRY DISSTON & SONS, INC.)<sup>1</sup>

ARCHITECT-ENGINEER: IRVING S. TOWSLEY, 112 SOUTH 16TH STREET, PHILADELPHIA, PENNSYLVANIA

Amount fixed fee: \$7,460.00.

Estimated cost of construction project: \$359,400.00.

Type of construction project: Construction and equipping of a plant for the partial manufacture of armor plate.

Location: Philadelphia, Pennsylvania.

Type of service: Architectural-Engineering.

Time estimate: For Construction to be Started within 10 days from date of Notice to Proceed.

Payment: To be paid by Finance Officer, U. S. Army at Frankford Arsenal, Philadelphia, Pennsylvania.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to, Procurement Authority No. ORD 6785 P2-3211 A 0141-01 the

<sup>1</sup> Contract No. W 6230 qm-3; O.I. No.; 3-41.



available balance of which is sufficient to cover the cost of same.

M. B. BIRDSEYE,  
Major, Q. M. C.

This contract, entered into this 17th day of September 1940, by *The United States of America* (hereinafter referred to as "the Government"), represented by the Contracting Officer executing this contract, and *Irving S. Towsley*, 112 South 16th Street, Philadelphia, Pennsylvania, an individual trading as *Irving S. Towsley* of the City of Philadelphia in the State of Pennsylvania (hereinafter referred to as "the Architect-Engineer"),

The Architect-Engineer shall perform all the necessary services provided under this contract for the following described project:

The construction and equipping of a plant for the partial production of armor plate; the said plant shall include buildings, shops, steam lines, compressed air lines, electric lines, telephone lines, fencing, lighting, and such other structures necessary or appropriate for a plant of the approximate capacity aforesaid; also railroad trackage; heating facilities; roads; and machinery foundations including utilities and appurtenances (hereinafter referred to as "the project"), at Philadelphia, Pennsylvania, and estimated to cost \$359,400.00 and to be completed within Six (6) months from the date hereof, which estimates of cost and time are based on the best available data which are on file in the office of the Contracting Officer.

*Fixed-fee and reimbursement of expenditures.* In consideration for his undertakings under the contract, the Architect-Engineer shall be paid the following:

a. A fixed fee in the amount of Seven Thousand Four Hundred Sixty Dollars (\$7,460.00) which shall constitute complete compensation for the Architect-Engineer's services.

b. Reimbursement for the following expenditures:

Actual salaries or wages paid to principal assistant engineers, engineers, architects and other technical, administrative and field employees of the Architect-Engineer directly engaged on the work including those in both his home and field office.

The actual cost of expenditures made by the Architect-Engineer under the provisions of Article IV and Article VII of this contract.

*Method of payment.* Whether the construction work be completed or whether its execution be suspended or abandoned in part or whole, payments to the Architect-Engineer are to be made as follows:

At intervals of not less than two weeks, the Architect-Engineer shall prepare a statement of the actual salaries paid, as hereinbefore mentioned, during the pre-

ceding period of two weeks, together with a statement of all other expenses chargeable to the Government and including an estimate of the portion of the Architect-Engineer's Fixed Fee earned. These statements, with original certified pay rolls, receipted bills for all expenses including materials, supplies and equipment, and all other supporting data as may be required, shall be delivered to the authorized representative of the Contracting Officer. The approved amounts of such statements shall be the basis for the preparation of the public voucher.

The Government may terminate this contract at any time and for any cause by a notice in writing from the Contracting Officer to the Architect-Engineer.

This contract is authorized by the following laws:

Public No. 611—76th Congress, approved June 13, 1940.

Public No. 703—76th Congress, approved July 2, 1940.

NEAL H. MCKAY,  
Major, Quartermaster Corps,  
Assistant to the Director  
of Purchases and Contracts.

[F. R. Doc. 40-4666; Filed, October 31, 1940;  
9:35 a. m.]

SUMMARY OF FIXED-PRICE (LUMP-SUM)  
MANAGEMENT SERVICE CONTRACT, COST-  
PLUS-A-FIXED-FEE EQUIPPING CONTRACT,  
AND LEASE OF GOVERNMENT-OWNED  
PLANT AND MANUFACTURING FACILITIES<sup>1</sup>

CONTRACTOR: HENRY DISSON & SONS, INC.,  
PHILADELPHIA, PA.

Contract For: Management service covering supervision, direction and control of designing, engineering, and construction of a Plant for the partial manufacture of armor plate, and the equipping (including the purchase and installation) of manufacturing facilities in said Plant, and for the lease of said plant and manufacturing facilities.

Fixed Price (Lump Sum) for Management Service: \$20,000.00 under Title I.

Fixed Fee for Equipping: \$35,000.00 under Title II.

Place: Philadelphia, Pennsylvania.

Estimated cost of equipping: \$624,100.00 under Title II.

Rental to be paid to the Finance Officer, U. S. Army at Frankford Arsenal, Philadelphia, Pennsylvania.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following Procurement Authorities, the available balance of which are sufficient to cover the cost of the same:

ORD 6785 P2-3211 A1005-01

This contract, entered into this 10th day of September 1940, by the *United States of America*, hereinafter called the

Government, represented by the Contracting Officer executing this contract and *Henry Disston & Sons, Inc.*, a corporation organized and existing under the laws of the State of Pennsylvania, with its principal office in Philadelphia, Pennsylvania, hereinafter called the Contractor,

#### MANAGEMENT SERVICE

*Description of plant.* The construction project (hereinafter referred to as "The Plant") shall comprise a plant at Philadelphia, Philadelphia County, Pennsylvania, for the partial production of armor plate.

Said Plant shall include buildings, shops, steam lines, compressed air lines, electric lines, telephone lines, fencing, lighting, and such other structures necessary.

*Character and extent of services.* The Contractor shall determine the requirements for a Plant of the type and capacity described in Article I-A hereof; shall manage, supervise, direct and control the designing, engineering and construction of said Plant, shall supply all layout drawings of equipment required to construct foundations necessary for the equipping thereof in accordance with the requirements of Title II of this contract.

*Consideration.* As complete consideration for its undertaking under this Title I the Contractor shall receive the sum of Twenty Thousand Dollars (\$20,000.00), which sum has been determined by negotiation between the Contractor and the Chief of Ordnance.

Partial payments of the consideration provided in section 1 of this Article I-C shall be made to the Contractor on the last working day of each month from and after the date of this Contract, as they accrue, based upon estimates of the percentage of completion of the work and services provided for in this Title I, and approved by the Contracting Officer.

#### EQUIPPING OF PLANT

*Statement of work.* The Contractor shall, as an independent contractor, and not as an agent of the Government, in the shortest reasonable time:

(a) Purchase or produce the machinery and equipment set forth in Schedule "A", which is attached hereto and specifically made a part hereof;

(b) Purchase or produce the handling equipment set forth in Schedule "B", which is attached hereto and specifically made a part hereof;

(c) Purchase or produce the miscellaneous factory equipment set forth in Schedule "C", which is attached hereto and specifically made a part hereof;

(d) Install, or cause to be installed in the Plant described in Title I, Article I-A hereof, the manufacturing facilities set forth in said Schedules "A", "B", and "C", and "D", to the extent that installation is necessary.

(e) Make such changes as may be necessary in the location of equipment

<sup>1</sup> Contract No. W-ORD-472.



now installed in the Contractor's Plant because of the installation and use of equipment listed in said Schedules "A", "B", "C", and "D".

(f) To any extent not fully set forth in items (a), (b), (c), (d) and (e) of this Article II-A, furnish the labor, materials, tools, machinery, equipment, facilities, supplies and service, and do all other things necessary to equip the Plant for the manufacture of armor plate at the production rate specified in Title I, Article I-A hereof.

**Estimates.** It is estimated that the total cost of the work covered by this Title II will be approximately Six Hundred Twenty-Four Thousand One Hundred Dollars (\$624,100.00), exclusive of the Contractor's Fee, and that the work herein contracted for will be ready for utilization in the manufacture of armor plate within Eight (8) months from the date of this contract.

**Consideration.** In consideration for its undertaking under this contract the Contractor shall receive the following:

(a) Reimbursement for expenditures as provided in Article II-G.

(b) A fixed fee in the amount of Thirty-Five Thousand Dollars (\$35,000.00), which shall constitute complete compensation for the Contractor's services, including profit.

**Title.** The title to all manufacturing facilities set forth in Schedules "A", "B", "C" and "D" which are purchased by or on behalf of the Contractor, shall be in the Government upon delivery at the Plant or at an approved storage site; and the title to all such facilities, which are produced or constructed by the Contractor, shall be in the Government when completed.

**Payments.** The Government will currently reimburse the Contractor for expenditures made in accordance with Article II-G upon certification to and verification by the Contracting Officer of the original certified payrolls for labor, the original paid invoices for materials or other original papers. Generally, reimbursement will be made weekly but may be made at more frequent intervals if the conditions so warrant.

The fixed fee prescribed in Article II-C shall be compensation in full for the services of the Contractor, including profit. Ninety percent (90%) of said fixed fee shall be paid as it accrues, in monthly installments based upon the percentage of the completion of the work as determined from estimates made and approved by the Contracting Officer.

**Termination of contract by Government.** Should the Contractor at any time refuse, neglect, or fail to prosecute the work with promptness and diligence, or default in the performance of any of the agreements herein contained, or should conditions arise which made it

advisable or necessary in the interest of the Government to cease work under this contract, the Government may terminate this contract by a notice in writing from the Contracting Officer to the Contractor.

**Advances.** After the execution of this contract, the Government, as requested by the Contractor, from time to time, subject to the approval of the Contracting Officer, shall advance to the Contractor for the purpose of producing or procuring and installing manufacturing facilities as set forth in this Title II, without payment of interest thereon by the Contractor, an initial sum of One Hundred Thousand Dollars (\$100,000), and such additional sums from time to time as may be requested by the Contractor. The total of all such advances shall not exceed a sum representing 30% of the estimated cost of the work under Title II.

#### LEASE

**Subject matter.** The Government hereby leases to the Contractor the land, plant, buildings, improvements, equipment, machinery and appurtenances, all and singular, thereunto belonging, all of which are more particularly described and designated in Titles I and II. The land, plant, buildings, and improvements are hereinafter called the "Plant", and the equipment, machinery, and appurtenances thereto are hereinafter called the "Manufacturing Facilities."

The Contractor, without additional cost to the Government, shall maintain and keep in repair all of the Manufacturing Facilities herein leased. As perishable tools herein leased become worn out and require replacement during the term of this lease or any extension thereof, they shall be replaced by the Contractor without additional cost to the Government.

**Term.** The term of this lease shall be for a period of one year; beginning on the date when the Manufacturing Facilities are completely installed in the Plant, which date shall be certified by the Contracting Officer.

For the purpose of expediting the manufacture of armor plate and without rental further than that provided in Article III-C, the Contractor shall be permitted to use, subject to the terms and conditions hereof, as they become available for use, any of the Manufacturing Facilities prior to the commencement of the term herein created.

**Rental.** The Contractor agrees to pay, during the term herein created, rental computed on the following basis:

At the rate of 5¢ per pound for fabricated and fully finished armor plate.

At the rate of 3¢ per pound for heat treated, unfabricated armor plate.

At the rate of 1¢ per pound for carburized, annealed armor plate for finishing by others.

This contract is authorized by the following laws:

Act of July 2, 1940 (Public No. 703, 76th Cong.)

NEAL H. MCKAY,  
Major, Quartermaster Corps,  
Assistant to the Director  
of Purchases and Contracts.

[F. R. Doc. 40-4665; Filed, October 31, 1940;  
9:35 a. m.]

#### DEPARTMENT OF THE INTERIOR.

##### Bituminous Coal Division.

[Docket No. A-151]

PETITION OF CONSOLIDATION COAL COMPANY FOR REVISION OF PRICE INSTRUCTION NO. 4 IN THE SCHEDULE OF EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 1 FOR ALL SHIPMENTS EXCEPT TRUCK SO AS TO PERMIT SHIPMENT OF OVERSIZED  $\frac{3}{4}$ " x 0 COALS FROM MINE NO. 120-121 (ACOSTA), MINE INDEX NO. 115-116, DISTRICT NO. 1

##### MEMORANDUM OPINION AND ORDER CONCERNING PRAYER FOR TEMPORARY RELIEF

The original petition in the above-entitled matter prays for the issuance by the Director of preliminary or temporary and final orders modifying Price Instruction No. 4 in the Schedule of Effective Minimum Prices for District No. 1 for All Shipments Except Truck in respect to shipments of oversized  $\frac{3}{4}$ " x 0 coals from petitioner's No. 120-121 (Acosta) Mine.

On October 22, 1940, an informal conference concerning the prayer for temporary relief was held by this Division, pursuant to § 301.106 (d) of the Rules and Regulations Governing Practice and Procedure in 4 II (d) proceedings. The conference was held after telegraphic notice sent on October 17, 1940, to the attorneys for petitioner, the Bituminous Coal Producers Board for District No. 1, and the Statistical Bureau for that District. Petitioner was instructed in turn to notify all persons eligible to be parties and referred to by name in the petition, and the District Board was requested to notify all interested Code Members. The Bituminous Coal Producers Board for District No. 7 and the Consumers' Counsel Division, of the Office of the Solicitor, Department of the Interior were also notified.

The following persons were represented at the conference: The original petitioner; the Berwind-White Coal Mining Company and the Davis Coal and Coke Company, Code members of District No. 1; District Board No 1; and the Consumers' Counsel Division.

It appears that the object of petitioner is to obtain exemption from the provisions of Price Instruction No. 4 of the Schedule of Effective Minimum Prices for District No. 1 for shipments of over-



sized  $\frac{3}{4}$ " x 0 slack from its No. 120-121 (Acosta) Mine to the B. M. T. Division of the New York City Transit System, New York Steam Corporation, Bethlehem Steel Corporation, Aspinook Corporation, and the Kennecott Copper Corporation for shipment to Chase Brass and Copper Company, on the ground that such shipments have in the past been made at the same prices as for regularly-sized  $\frac{3}{4}$ " x 0 coals.

Davis Coal and Coke Company and District Board No. 1 appeared expressly in opposition to granting any of the temporary relief prayed for. The Berwind-White Coal Mining Company limited its opposition to the granting of such temporary relief in so far as shipments to the B. M. T. Division of the New York City Transit System and New York Steam Corporation are concerned.

It is not clear that any injury has been suffered by petitioner or is imminent, nor does it appear that the provisions of Price Instruction No. 4 have adversely affected or threatened immediately to affect any substantial interest of the petitioner, in so far as shipments to New York City Transit System, New York Steam Corporation, Aspinook Corporation, and The Kennecott Copper Corporation are concerned. It further appears that oversized  $\frac{3}{4}$ " x 0 slack coals may be of greater value to those consumers than regularly-sized  $\frac{3}{4}$ " x 0 coals and that the agreements entered into by the petitioner with Aspinook Corporation and The Kennecott Copper Corporation for delivery of Acosta oversized slacks were made after the establishment of the effective minimum prices and the aforementioned Price Instruction No. 4. It does appear, however, that the petitioner is presently shipping such oversized slacks to Bethlehem Steel Corporation for by-product use and that the limitations of Price Instruction No. 4 are injuring and will continue to injure the opportunities of petitioner to compete for such business.

In view of the foregoing circumstances and the fact that the Director, by Order dated October 23, 1940, has scheduled a final hearing in this matter to begin on November 25, 1940, in which all interested parties will be afforded an opportunity to participate, the Director is of the opinion that, pending final disposition of this matter, the temporary relief prayed for should be granted at this time only as follows:

The petitioner, Consolidation Coal Company, should be permitted to ship to Bethlehem Steel Corporation, at Bethlehem, Pennsylvania, for by-product use only, from its No. 120-121 (Acosta) mine, Mine Index No. 115-116, District No. 1, oversized  $\frac{3}{4}$ " x 0 slack coals prepared at that mine by screening coals through a  $\frac{3}{4}$ " x 0 screen and by crushing coals to the smallest possible size with the use of available crushing equipment at the mine, at a price of \$2.05 f. o. b. transportation facilities at the mine, any provi-

sion of Price Instruction No. 4 of the Schedule of Effective Minimum Prices for District No. 1 for All Shipments Except Truck to the contrary notwithstanding;

and in no other respect.

Notice is hereby given that applications to stay, terminate or modify the preliminary or temporary relief granted in this order may be filed pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to Section 4 II (d) of the Bituminous Coal Act of 1937.

Accordingly, it is so ordered.

Dated: October 29, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-4667; Filed, October 31, 1940;  
9:57 a. m.]

## DEPARTMENT OF LABOR.

### Wage and Hour Division.

#### NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under section 6 of the Act are issued under section 14 thereof, Part 522 of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) and the Determination and Order or Regulation listed below and published in the FEDERAL REGISTER as here stated.

Hosiery Learner Regulations, September 4, 1940 (5 F.R. 3530).

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591).

Millinery Learner Regulations, Custom Made, August 29, 1940 (5 F.R. 3392).

Millinery Learner Regulations, Popular Priced, August 29, 1940 (5 F.R. 3393).

Knitted Wear Order, October 24, 1939 (4 F.R. 4351).

Textile Order, November 8, 1939 (4 F.R. 4531) as amended, April 27, 1940 (5 F.R. 1586).

Glove Order, February 20, 1940, (5 F.R. 714).

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective November 1, 1940. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review or reconsideration thereof.

#### NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EXPIRATION DATE

Berkshire Knitting Mills, Wyomissing, Pennsylvania; Hosiery; Full-Fashioned; 5 percent; November 1, 1941.

Cambria Silk Hosiery Mills, Blackwood, New Jersey; Hosiery; Full-Fashioned; 5 percent; November 1, 1941.

Cambridge Hosiery Mills, Inc., Cambridge, Maryland; Hosiery; Full-Fashioned; 5 learners; July 1, 1941.

Debonair Full Fashioned Mills, Inc., Waterhouse Street, Cleveland, Tennessee; Hosiery; Full-Fashioned; 5 learners; July 1, 1941.

Douglas Silk Products Company, Douglas, Georgia; Hosiery; Full-Fashioned; 5 learners; November 1, 1941.

Fremont Hosiery Mills, Thomasville, North Carolina; Hosiery; Seamless; 5 percent; November 1, 1941.

Hatch Full Fashioned Hosiery Company, Belmont, North Carolina; Hosiery; Full-Fashioned; 5 percent; November 1, 1941.

Magnet Mills, Inc., Clinton, Tennessee; Hosiery; Seamless; 5 learners; November 1, 1941.

Magnet Mills, Inc., Lake City, Tennessee; Hosiery; Seamless; 5 percent; November 1, 1941.

Real Silk Hosiery Mills, Dalton, Georgia; Hosiery; Seamless & Full-Fashioned; 35 learners; July 1, 1941.

Real Silk Hosiery Mills, Inc., Dalton, Georgia; Hosiery; Seamless & Full-Fashioned; 5 percent; November 1, 1941.

Tred Avon Hosiery Mills, Oxford, Maryland; Hosiery; Full-Fashioned; 5 learners; November 1, 1941.

Walls Hosiery Company, North Wales, Pennsylvania; Hosiery; Full-Fashioned; 5 learners; July 1, 1941.

Walls Hosiery Company, North Wales, Pennsylvania; Hosiery; Full-Fashioned; 5 percent; November 1, 1941.

Westmont Silk Hosiery Mills Corporation, Highland Avenue and Orchard Street, Westmont, New Jersey; Hosiery; Full-Fashioned; 5 percent; November 1, 1941.

Wrenn Hosiery Company, Thomasville, North Carolina; Hosiery; Seamless; 5 percent; November 1, 1941.

Carwood Manufacturing Company, Cornelia, Georgia; Apparel; Work Shirts; 5 percent (75% of the applicable hourly minimum wage); November 1, 1941.

Clover Brassiere Company, 31 East 31st Street, New York, New York; Apparel; Brassieres; 3 learners (75% of the applicable hourly minimum wage); January 24, 1941.

D'Amour Foundation Company, 135 Madison Avenue, New York, New York; Apparel; Brassieres; 5 learners (75% of the applicable hourly minimum wage); January 24, 1941.

Doncaster Collar and Shirt Company, Rutherfordton, North Carolina; Apparel; Dresses, Men's Shirts; 5 learners (75% of the applicable hourly minimum wage); November 1, 1941.



Empire Corset Company, 14-16 Elm Street, McGraw, New York; Apparel; Corsets; 2 learners (75% of the applicable hourly minimum wage); November 1, 1941.

J. Freezer and Son, Inc., East End Plant, Radford, Virginia; Apparel; Men's Cotton Dress Shirts; 5 percent (75% of the applicable hourly minimum wage); November 1, 1941.

J. Freezer and Son, Inc., West End Plant, Radford, Virginia; Apparel; Men's Cotton Dress Shirts; 5 percent (75% of the applicable hourly minimum wage); November 1, 1941.

Goodman, Cohen & Company, 226 New Brunswick Avenue, Perth Amboy, New Jersey; Apparel; Dress Shirts; 3 learners (75% of the applicable hourly minimum wage); November 1, 1941.

G. H. Hess, Incorporated, 211 W. Main Street, Louisville, Ohio; Apparel; Maid's Uniforms, Ladies' Wash Dresses; 5 learners (75% of the applicable hourly minimum wage); November 1, 1941.

S. L. Hoffman and Company, 1 Carlton Avenue, Brooklyn, New York; Apparel; House Dresses and Uniforms; 5 percent (75% of the applicable hourly minimum wage); January 24, 1941.

Honesdale Garment Company, Honesdale, Pennsylvania; Apparel; Sport Dresses; 5 learners (75% of the applicable hourly minimum wage); November 1, 1941.

I. C. Isaacs and Company, Inc.; Bank & Grundy Streets, Baltimore, Maryland; Apparel; Breeches, Pants, Ski Suits; 5 percent (75% of the applicable hourly minimum wage); November 1, 1941.

Kings Dresses, Incorporated; 519 Broadway, Kingston, New York; Apparel; Dresses; 5 percent (75% of the applicable hourly minimum wage); November 1, 1941.

The Little Prince, Inc., Third and Cedar Street, Columbia, Pennsylvania; Apparel; Children's Sportwear; 5 percent (75% of the applicable hourly minimum wage); November 1, 1941.

Marvel Manufacturing Company, Marconi Boulevard, Copiague, New York; Apparel; Children's Dresses; 5 learners (75% of the applicable hourly minimum wage); November 1, 1941.

Marvel Underwear and Pajama Company, 20 Cleveland Avenue, Rutland, Vermont; Apparel; Men's and Boys' Pajamas; 5 percent (75% of the applicable hourly minimum wage); November 1, 1941.

Morehead City Garment Company, Inc., 1504 Bridges Street, Morehead City, North Carolina; Apparel; Dress Shirts; 5 percent (75% of the applicable hourly minimum wage); November 1, 1941.

Mt. Holly Dress Company, Inc., 301 Union Street, Mt. Holly, New Jersey; Apparel; Dresses; 5 learners (75% of the applicable hourly minimum wage); November 1, 1941.

N. R. Garment Company, Inc., Walkersville, Maryland; Apparel; Pajamas; 5 learners (75% of the applicable hourly minimum wage); November 1, 1941.

William H. Noggle and Sons, Inc., Grant & High Streets, Manheim, Pennsylvania; Apparel; Men's and Boys' Shirts; 5 percent (75% of the applicable hourly minimum wage); November 1, 1941.

William H. Noggle and Sons, Inc., Rexmont, Pennsylvania; Apparel; Boys' Cotton Sleeping Pajamas; 4 learners (75% of the applicable hourly minimum wage); November 1, 1941.

William H. Noggle and Sons, Inc., 27-37 E. Ferdinand Street, Manheim, Pennsylvania; Apparel; Children's Cotton Pajamas, Wash Suits, and Overalls; 5 percent (75% of the applicable hourly minimum wage); November 1, 1941.

Shamokin Dress Company, 1012 N. Shamokin Street, Shamokin, Pennsylvania; Apparel; Women's and Children's Dresses; 5 percent (75% of the applicable hourly minimum wage); November 1, 1941.

Boris Smoler & Sons, 3021 N. Crawford Avenue, Chicago, Illinois; Apparel; Wash Dresses; 5 percent (75% of the applicable hourly minimum wage); November 1, 1941.

Style Form Brassiere Company, Inc., 49 W. 27th Street, New York, New York; Apparel; Brassieres and Corsets; 4 learners (75% of the applicable hourly minimum wage); January 24, 1941.

The United Woolen Company, 74 E. Spring Street, Columbus, Ohio; Apparel; Men's Suits and Overcoats; 5 percent (75% of the applicable hourly minimum wage); November 1, 1941.

Utica Knitting Company, Mill No. 8, Utica, New York; Apparel; Men's and Boys' Woven Underwear; Lastex and Gabardine Swim Trunks; 5 percent (75% of the applicable hourly minimum wage); November 1, 1941.

Wachusett Shirt Company, Water Street, Leominster, Massachusetts; Apparel; Men's Dress Shirts, Pajamas, Nightshirts, Shorts; 5 percent (75% of the applicable hourly minimum wage); November 1, 1941.

Wear-Rite Brassiere Company, Inc., 37 W. 26th Street, New York, New York; Apparel; Corsets and Allied Garments; 5 percent (75% of the applicable hourly minimum wage); January 24, 1941.

Weil-Kalter Manufacturing Company, 4th and Cherry Streets, Troy, Missouri; Apparel; Woven Underwear; 5 percent (75% of the applicable hourly minimum wage); November 1, 1941.

Wilhoite-Evans & Cohn, Inc., 945 Los Angeles Street, Los Angeles, California; Apparel; Pants and Coats; 5 learners (75% of the applicable hourly minimum wage); November 1, 1941.

Florence Reichman, Inc., 16 East 52nd Street, New York, New York; Millinery; Custom-Made; 4 learners; November 1, 1941.

Alabama Knitting Mills, Inc., Eufaula, Alabama; Knitted Wear; Knitted Underwear; 5 learners; November 1, 1941.

Alabama Knitting Mills, Inc., Eufaula, Alabama; Knitted Wear; Knitted Underwear; 30 learners; February 28, 1941.

I. Bennett, Incorporated, 594 Broadway, New York, New York; Knitted Wear; Children's Knit Underwear; 5 percent; January 24, 1941.

Myrtle Knitting Mills, Inc., 98 S. Main Street, Unionville, Connecticut; Knitted Wear; Sweaters and Coats; 5 percent; November 1, 1941.

Hill Spinning Company, Roseboro, North Carolina; Textile; Cotton Yarns; 3 learners; November 1, 1941.

Juliette Milling Company, Juliette, Georgia; Textile; Cotton Yarns and Twine; 3 percent; November 1, 1941.

Texas Textile Mills, Elm Street, McKinney, Texas; Textile; Coarse Cotton Cloth; 6 learners; November 1, 1941.

W. Warren Thread Works, Westfield, Massachusetts; Textile; Cotton Thread and Glazed Yarn; 3 learners; November 1, 1941.

Massachusetts Knitting Mills Corporation, Pulaski Highway, Columbia, Tennessee; Textile; Silk Throwing; 2 learners; November 1, 1941.

Kingston Chenille Company, Inc., Kingston, Georgia; Textile; Chenille Bedspreads; 15 learners; May 1, 1941.

Kingston Chenille Company, Inc., Kingston, Georgia; Textile; Chenille Bedspreads; 5 percent; November 1, 1941.

Brookville Glove Company, 25 Railroad Street, Brookville, Pennsylvania; Glove; Work Gloves; 3 learners; November 1, 1941.

Mid-West Glove Company, 918 North Fourth Street, Milwaukee, Wisconsin; Glove; Work Gloves; 5 learners; November 1, 1941.

Milwaukee Glove Company, Milwaukee, Wisconsin; Glove; Leather Dress Gloves; 5 learners; November 1, 1941.

Seattle Glove Company, Seattle, Washington; Glove; Work Gloves; 5 learners; November 1, 1941.

Leon F. Swears, Johnstown, New York; Glove; Knit Wool Gloves; 15 learners; April 25, 1941.

Leon F. Swears, Johnstown, New York; Glove; Knit Wool Gloves; 5 percent; November 1, 1941.

Signed at Washington, D. C., this 31st day of October 1940.

GUSTAV PECK,  
Authorized Representative  
of the Administrator.

[F. R. Doc. 40-4675; Filed, October 31, 1940; 11:26 a. m.]

## FEDERAL POWER COMMISSION.

[Docket No. IT-5658]

IN THE MATTER OF SIERRA PACIFIC POWER COMPANY

### NOTICE OF APPLICATION

Notice is hereby given that on October 29, 1940, an application was filed with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, by Sierra Pacific Power Company, a corporation organized under the laws of the State of Maine and doing business in the



States of Nevada and California, with its principal business office at Reno, Nevada, seeking an order authorizing the issuance and sale to John Hancock Mutual Life Insurance Company and Massachusetts Mutual Life Insurance Company at 103% of the principal amount thereof, plus accrued interest thereon to the date of delivery, of \$3,000,000.00 principal amount of its First Mortgage Bonds, Series A 3 1/4%, to be dated as of December 2, 1940 and to be due December 1, 1970; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard or to make any protest in reference to said application should, on or before the 14th day of November 1940, file with the Federal Power Commission a petition or protest in accordance with the Commission's Rules of Practice and Regulations.

[SEAL] LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 40-4664; Filed, October 31, 1940;  
9:35 a. m.]

#### FEDERAL TRADE COMMISSION.

[Docket No. 4134]

IN THE MATTER OF D. J. BORTZ AND EDITH BORTZ, INDIVIDUALLY AND TRADING AS CHAMPION BATTERY COMPANY AND THE BALL COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of October, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

*It is ordered*, That William C. Reeves, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Monday, December 2, 1940, at nine o'clock in the forenoon of that day (Eastern Standard Time) in Room 921, Federal Building, Detroit, Michigan.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By direction of the Commission.  
[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 40-4669; Filed, October 31, 1940;  
10:53 a. m.]

[Docket No. 4183]

IN THE MATTER OF OHIO ART COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of October, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

*It is ordered*, That William C. Reeves, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Monday, December 9, 1940, at nine o'clock in the forenoon of that day (Eastern Standard Time) in Room 418, United States Customs House, Toledo, Ohio.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By direction of the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 40-4670; Filed, October 31, 1940;  
10:53 a. m.]

[Docket No. 4288]

IN THE MATTER OF ATLAS WALL PAPER MILLS, INC.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of October, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., Section 41),

*It is ordered*, That William C. Reeves, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Wednesday, November 27, 1940, at nine o'clock in the forenoon of that day (Central Standard Time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately

to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By direction of the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 40-4671; Filed, October 31, 1940;  
10:53 a. m.]

#### SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-91]

IN THE MATTER OF CALIFORNIA PUBLIC SERVICE COMPANY; PEOPLES LIGHT AND POWER COMPANY

ORDER DESIGNATING NEW TRIAL EXAMINER AND RECONVENING HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of October, A. D. 1940.

Applications pursuant to the Public Utility Holding Company Act of 1935 having been duly filed with this Commission by the above-named parties; the Commission having previously ordered that a hearing be held in said matter, pursuant to appropriate notice, at the offices of the Commission in Washington, D. C., on October 29, 1940; requests having been made to the Commission by various persons that an opportunity for hearing in this matter be afforded in San Francisco, California; and it appearing appropriate to the Commission that such opportunity for hearing be granted;

*It is ordered*, That said hearing<sup>1</sup> as previously ordered to be held in Washington, D. C., shall proceed as so ordered on October 29, 1940, and at the conclusion thereof said hearing shall be adjourned to be reconvened on November 7, 1940, at 10:00 in the forenoon of that day, at the offices of the Securities and Exchange Commission, Room 1301, Bank of America Building, 625 Market Street, San Francisco, California, at which time opportunity will be given to any interested persons to be heard with respect to the subject matter of said applications.

*It is further ordered*, That John G. Clarkson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing reconvened as aforesaid. The officer so designated to preside at said hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of the reconvening of such hearing is hereby given to the above-named applicants and to all interested persons. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file

<sup>1</sup> 5 F.R. 4085.



a notice to that effect with the Commission on or before November 5, 1940.

The matter concerned herewith is in regard to the acquisition by California Public Service Company of all of the electric and water properties of Central Mendocino County Power Company located in and around Willets, California, for the sum of \$235,000, which sum is proposed to be raised by the private sale of \$140,000 principal amount First Mortgage Bonds, Series "B", 4½%, due 1964, to the sole holder of all presently outstanding bonds of said issues and by the sale of 3,800 shares of common stock for \$95,000 (the par value thereof) to Peoples Light and Power Company, a registered holding company owning all of the presently outstanding common stock. Said common stock is proposed to be pledged under the Indenture securing Peoples Light and Power Company's Collateral Lien Bonds.

Applicant has designated Sections 6 (b) and 10 and Rule U-12D-1 as applicable.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 40-4673; Filed, October 31, 1940;  
11:17 a. m.]

[File No. 31-417]

IN THE MATTER OF CONSOLIDATED ELECTRIC  
AND GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of October, A. D. 1940.

An amendment to an application pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on December 3, 1940, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 28, 1940.

The matter concerned herewith is in regard to an amendment to an application made by Consolidated Electric and Gas Company, a registered holding company, pursuant to section 3 (b) of the Public Utility Holding Company Act of 1935, for the exemption of the following companies from the provisions of the Act applicable to them as subsidiaries of Consolidated Electric and Gas Company: The Islands Gas and Electric Company, Compagnie d'Eclairage Electrique des Villes de Port-au-Prince et du Cap Haitien, Compania Electrica de Santo Domingo, C. por A., Gas y Electricidad, S. A., Manila Gas Corporation, Union Electrica de Canarias, S. A., Tranvias de Las Palmas, S. A., and Porto Rico Gas & Coke Company. The Commission on February 2, 1939 entered an order, pursuant to section 3 (b) of the Act, exempting the above named companies from certain of the provisions of the Act. The exemption so granted expires on December 31, 1940, subject to the right of Consolidated Electric and Gas Company to make application to the Commission for an extension of such exemption. The present amendment requests an extension of the exemption previously granted by the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 40-4672; Filed, October 31, 1940;  
11:17 a. m.]

[File No. 70-174]

IN THE MATTER OF CONSOLIDATED ELECTRIC  
AND GAS COMPANY; BARAGA COUNTY  
LIGHT AND POWER COMPANY; HOUGHTON  
COUNTY ELECTRIC LIGHT COMPANY

NOTICE REGARDING FILING SUBJECT TO  
RULE U-8

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of October, A. D. 1940.

Notice is hereby given that declarations and an application have been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above-named parties; and

Notice is further given that any interested person may, not later than November 14, at 4:30 P. M., E. S. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his

interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declarations or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-8 of the Rules and Regulations promulgated pursuant to said Act. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declarations and application, which are on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

Baraga County Light and Power Company (Baraga), a subsidiary of Consolidated Electric and Gas Company (Consolidated), a registered holding company, proposes to issue and sell to The Northwestern Mutual Life Insurance Company, at the principal amount thereof, \$400,000 principal amount of its 4% First Mortgage Bonds, to be due October 1, 1960. The proceeds will be used by Baraga to retire at the principal amount thereof \$123,000 principal amount of its 6% Demand Note owned by Houghton County Electric Light Company (Houghton), an associate company, and \$277,000 principal amount of a 6% Note (of a total principal amount of \$303,500) held by Consolidated. The balance of \$26,500 principal amount due on the 6% note held by Consolidated will be donated by it to Baraga as a capital contribution, and such 6% note will then be surrendered to Baraga for cancellation.

Houghton proposes to use not to exceed \$101,000 of the \$123,000 received by it in payment of the Baraga 6% Demand Note to repay in part preexisting indebtedness of Houghton to Consolidated. The remainder will be used by Houghton for its construction requirements.

Consolidated proposes to use \$150,000, out of the total of \$277,000 received by it in discharge of Baraga's debt, to pay certain of Consolidated's bank loans, and the balance of approximately \$127,000 is to be deposited with the Trustee for Consolidated's Collateral Trust Gold Bonds, dated August 1, 1932. The \$101,000 or less which Consolidated will receive from Houghton in partial payment of preexisting indebtedness is required to be deposited with the Trustee for the Central Gas and Electric Company First Lien Collateral Trust Gold Bonds, due 1946. Consolidated proposes to use the funds so deposited with the Trustees for the purchase and retirement of such bonds either by the respective Trustee or by Consolidated according to the terms of the Trust Indentures.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

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11:17 a. m.]